

Message Text

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53

ACTION AF-07

INFO OCT-01 EUR-08 ISO-00 EB-04 L-01 H-01 CIAE-00 INR-05

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R 171100Z OCT 74

FM AMEMBASSY KINSHASA

TO SECSTATE WASHDC 9782

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY LONDON

AMEMBASSY PARIS

AMCONSUL BUKAVU BY POUCH

AMCONSUL LUBUMBASHI BY POUCH

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DEPT PASS OPIC, COMMERCE, EXIM

E.O. 11652: N/A

TAGS: BE EIVN

SUBJECT: INVESTMENT CLIMATE: DANZER CASE RESOLVED

REF: KINSHASA'S A-102 OF JUNE 6, 1974 (NOTAL)

BEGIN UNCLASSIFIED

1. SUMMARY: PRESIDENT MOBUTU'S SPEECH OF NOVEMBER 30, 1973 ANNOUNCING "ZAIRIANIZATION" OF ALL AGRICULTURAL AND COMMERCIAL ACTIVITIES SPECIFICALLY EXEMPTED INVESTMENTS WHICH HAD TAKEN PLACE UNDER THE TERMS OF THE VERY LIBERAL 1969 INVESTMENT CODE. AND INDEED, THE GOVERNMENT OF ZAIRE LIVED UP TO THIS PROMISE--WITH THE EXCEPTION OF THEIR REFUSAL TO ALLOW DANZER, A GERMAN LOGGING FIRM, TO EXPORT RAW LUMBER IN ACCORDANCE WITH THE GOZ-DANZER INVESTMENT AGREEMENT SIGNED IN 1970.

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ZIARE'S MOVE AGAINST DANZER CAUSED REAL CONCERN IN BONN,

WHERE HERMES, THE FRG'S INVESTMENT GUARANTOR WAS COMMITTED IN THE DANZER AND OTHER GERMAN INVESTMENTS IN ZAIRE. DANZER, OF COURSE, STOPPED ALL WORK ON ITS LUMBER PROCESSING MILL AT MALUKU AND BEGAN TO WITHDRAW ITS EXPATRIATES. AND A POTENTIALLY FORBIDDING CLOUD MOVED INTO THE OTHERWISE EXCELLENT INVESTMENT CLIMATE FOR FOREIGN INVESTORS IN ZAIRE.

THE DANZER AFFAIR IN SUM, WAS CONSIDERED BY OBSERVERS AND PARTICIPANTS ALIKE AS A TEST CASE. THUS, ALL CONCERNED WERE PLEASED WHEN ON OCTOBER 4, THE GOVERNMENT OF ZAIRE AGREED TO FULLY RESTORE TO DANZER THE TERMS OF THE ORIGINAL INVESTMENT AGREEMENT. IN ADDITION TO BEING PERMITTED TO EXPORT 40 PERCENT OF ITS PRODUCTION AS RAW LUMBER, A SATISFACTORY COMPENSATION FORMULA WAS WORKED OUT. END UNCLASSIFIED/END SUMMARY

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2. THE TERMS OF DANZER'S INVESTMENT AGREEMENT WITH THE GOZ PERMITTED DANZER TO EXPORT 40 PERCENT OF ITS PRODUCTION IN THE FORM OF RAW LUMBER. THE OTHER 60 PERCENT WAS TO BE FINISHED PRODUCT, FOR BOTH THE LOCAL AND EXPORT MARKETS. AS PART OF THE ORIGINAL PACKAGE, DANZER BEGAN WORK ON A LUMBER MILL IN MALUKU. BY NOVEMBER, 1973 THE PLANNED INVESTMENT IN THE MILL OF SOME \$10 MILLION WAS ABOUT TWO-THIRDS COMPLETED. IT WAS AN UNEXPECTED BLOW, THEREFORE, WHEN DANZER AND THE GERMAN GOVERNMENT LEARNED THAT THE GOZ HAD PROHIBITED DANZER'S EXPORT OF RAW LUMBER, INDICATING THAT THIS PROHIBITION WAS PART OF THE "ZAIRIANIZATION" MEASURES BEGUN BY PRESIDENT MOBUTU ON NOVEMBER 30 WHEN HE ANNOUNCED THE TAKE-OVER BY ZAIRIANS OF ALL AGRICULTURAL AND COMMERCIAL ACTIVITIES DANZER AND THE GERMAN EMBASSY PROTESTED THAT THE TERMS OF THE ZAIRIANIZATION DECREES SPECIFICALLY EXEMPTED INVESTMENTS MADE UNDER THE INVESTMENT CODE OF 1969--BUT TO NO AVAIL. WHETHER THROUGH AN INITIAL EXCESS OF ZEAL ON THE PART OF GOZ OPERATING OFFICIALS, OR BECAUSE OF A POLICY DECISION FROM THE TOP--ZAIRIANIZATION WAS FIRMLY INTERPRETED TO PRECLUDE DANZER'S LIMITED OFFICIAL USE

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EXPORT OF RAW LUMBER.

3. THE GOZ'S CREATION OF SEVEN NEW "OFFICES" TO ASSURE THE ZAIRIANIZATION OF PRODUCTION AND MARKETING OF AGRICULTURAL PRODUCTS (FORESTRY, COCAO, FISHERIES, SUGAR, RUBBER, OILS AND CEREALS) WAS CLEARLY AIMED AT THE "COLONIAL/ INVESTMENTS IN AND CONTROL OVER RAW MATERIALS. DANZER HAPPEND TO FALL INTO THE TARGET

AREA, ALTHOUGH IT HAD A SPECIFIC AGREEMENT UNDER THE INVESTMENT CODE--AND AS A RESULT GOT CAUGHT IN A WRINGER. THUS, THE GENERAL INVESTMENT OUTLOOK AND THE SPECIFIC QUESTION OF INVESTMENT GUARANTEES BY HERMES--AND OPIC AMONG OTHERS--BECAME THE SUBJECT OF SOME DEBATE. THE GERMANS, WHO WERE MOST DIRECTLY AFFECTED, ALSO SAW A CONNECTION BETWEEN DANZER AND ON-GOING TALKS WITH THE GOZ IN THE CONTEXT OF THEIR TECHNICAL AND CULTURAL COOPERATION AGREEMENT WITH ZAIRE.

4. IN THE ENSUING MONTHS FOLLOWING NOV. 1973 DANZER AND THE GOZ ENGAGED IN A SERIES OF TALKS. WE UNDERSTAND THAT THE ZAIRIANS OFFERED SEVERAL SOLUTIONS--ALL OF WHICH DANZER FOUND UNACCEPTABLE. IN THE MEANTIME, WE WERE TOLD THT DANZER WAS LOSING SIGNIFICANT REVENUES DUE TO THE SHUT-DOWN OF ITS OPERATIONS. DURING THIS SAME PERIOD, THE GERMAN EMBASSY HERE MADE SEVERAL DEMARCHES ON BEHALF OF DANZER, AND THE PROBLEM WAS RAISED IN THE CONTEXT OF BI-LATERAL TALKS BETWEEN ECONOMIC DELEGATIONS OF THE TWO COUNTRIES. WE GUESS THAT THE EFFECT OF THE DANZER CASE ON FED PROGRAMS WAS BROUGHT INTO THE DISCUSSION AS WELL. AND NOT LEAST, OTHER GERMAN INVESTORS HERE, NOTABLY THE ASSINEZ GROUP, WHICH IS ENGAGED IN A RANGE OF PROJECTS IN NORTHEASTER ZAIRE--SLOWED THEIR MOMENTUM AND WAITED TO SEE WHAT HAPPENED TO DANZER. THE USG WAS CONCERNED TOO, GIVEN THE SIZE AND DEPTH OF THE US PUBLIC AND PRIVATE COMMITMENTS IN ZAIRE.

5. IN SEPTEMBER AND OCTOBER OF THIS YEAR, THE PACE OF DANZER-FRG-GOZ TALKS PICKED UP. AS WE UNDERSTAND IT, THE GERMAN EMBASSY HERE AND AN "ECONOMIC DELEGATION" FROM BONN TOOK THE POSITION THAT THE DANZER CASE HAD LIMITED OFFICIAL USE

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RAISED THE QUESTION OF CONTINUED INVESTMENT AND EXPORT GUARANTEES BY THE FRG AS WELL AS THE QUESTION OF THE VALIDITY OF ZIAIRE'S INVESTMENT CODE. THE FRG SIDE IN THIS LAST ROUND OF TALKS DID NOT SPECIFICALLY LINK THE DANZER CASE TO ECONOMIC AND CULTURAL ASSISTANCE PROGRAMS, AND INDEED, WE ARE TOLD THAT THE CONTRACTS WITH THE GOZ WERE QUITE FRIENDLY WITH NO THREATS FROM EITHER SIDE. IN ANY EVENT, THE GERMANS RECEIVED A VERBAL PROMISE ON THE EVENING OF OCTOBER 3, THAT THE PROBLEM WOULD BE RESOLVED. THE NEXT MORNING, OCTOBER 4, THE MINISTER OF NATIONAL ECONOMY, NAMWIZI, SENT THE GERMAN AMBASSADOR A LETTER WHICH AUTHORIZED DANZER TO EXPORT RAW LUMBER, ON ITS OWN ACCOUNT, IN ACCORDANCE WITH THE TERMS OF THE ORIGINAL INVESTMENT AGREEMENT. IN ADDITION TO THE FULL RESTORATION OF THE AGREEMENT, THE LETTER

LAI OUT THE GENEAL TERMS FOR COMPENSATION TO DANZER
FOR LOSSES INCURRED DURING THE SHUT-DOWN PERIOD.
DANZER AND THE FRG DELEGATION WERE ENTIRELY SATISFIED
WITH THE SETTLEMENT, AND DANZER WILL NOT ONLY COMPLETE
ITS MALUKA MILL, BUT MAY WELL EXPAND THE ORIGINAL SCOPE
OF ITS OPERATIONS. END LIMITED OFFICIAL USE

6. FOR BRUSSELS: PLEASE PASS BUTLER OF OPIC WHEN HE ARRIVES.
HINTON

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